

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LMREC III NOTE HOLDER, INC., :

Plaintiff, :

No. 7:20-cv-05063 (KMK)
(PED) :

-against- :

HUDSON EFT LLC, GUIDO SUBOTOVSKY, :
SAMUEL GACCIONE, HUGO SUBOTOVSKY, :
WILLIAM CLARKE, NOBLE ELEVATOR :
COMPANY INC., SHAWN'S LAWNS INC., VSP :
MECHANICAL INC., GEBERTH ELECTRIC INC., :
GAC BUILDERS LTD., BRIDGE MECHANICAL :
CORPORATION, UPPER RESTORATION, INC., :
AND JOHN DOE #1 THROUGH JOHN DOE #10, :

Defendants. x

~~PROPOSED~~ ORDER AND
BRIEFING SCHEDULE

Pursuant to the direction of the Honorable Kenneth M. Karas following the telephonic status conference held before the Court on Friday, July 16, 2021, the parties hereto submit the following:

1. Plaintiff's proposal as set forth in its July 7, 2021 correspondence to the Court is GRANTED in part as follows:

- a. The parties shall engage in limited fact discovery on the issue of the occurrence monetary events of default only (i.e., non-payment) as it relates to the relevant Loan Documents, up to and including August 23, 2021;
- b. Up and until August 23, 2021, the parties are permitted to conduct depositions as it relates solely to the issue of the occurrence monetary events of default (i.e., non-payment);
- c. Discovery as to the issue of the deficiency judgment and any non-monetary events of default, shall be preserved until the conclusion of the auction of the sale of the

underlying property, at which point such discovery shall resume and continue for a period of ninety (90) days thereafter;

- d. To the extent Plaintiff's summary judgment motion as referenced herein is denied, discovery on the deficiency judgment and the issues of non-monetary events of default shall commence immediately upon entry of this Court's Decision and Order denying said motion and continue for a period of ninety (90) days thereafter; AND

2. To the extent there is any discovery outstanding as it relates to the issue of events of monetary default, any such discovery shall be provided on or before August 4, 2021.

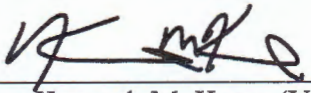
3. All parties reserve their rights to pursue any and all outstanding discovery following the ninety (90) period after the conclusion of the sale of the subject property, and to the extent Plaintiff's motion for summary judgment is granted.

4. Plaintiff's request to proceed with a motion for summary judgment seeking foreclosure on the issue of monetary events of default as committed by Defendant Hudson EFT, LLC is GRANTED and the parties shall comply with the briefing schedule as set forth herein:

- a. Any such motion shall be made no later than thirty (30) days after the close of fact discovery, or by September 20, 2021;
- b. To the extent any other party hereto wishes to move for summary judgment as it relates to events of monetary default, such party may do so no later than September 20, 2021;
- c. Opposition to any of the foregoing motions for summary judgment shall be filed no later than twenty-one (21) days following the filing of the aforesaid motion(s);

- d. Reply papers in further support of the foregoing motions for summary judgment shall be filed within twenty-one (21) days following the filing of any opposition to the underlying motion.

SO ORDERED:



Hon. Kenneth M. Karas (U.S.D.J.)

7/26/21